

Frequently Asked Questions

§ 706b Study Committees; Necessary and Advisable Districts

- 1. What is a merger study committee (or a § 706b study committee)? Is it different from the conversations my school board is having with other school boards?**

After the board of a school district has initially identified its community's educational priorities it may choose to have informal exploratory conversations with the boards of other districts about potentially merging their governance structures.

If some or all of those conversing districts decide that they would like to explore the possibility of creating a union school district in a more detailed manner, then they might choose to establish a study committee pursuant to 16 V.S.A. §§ 706, 706a, and 706b (commonly referred to as a "§ 706b study committee").

- 2. How is a § 706b study committee created and who can be a member?**

16 V.S.A. §§ 706, 706a, and 706b establish the process for creating a study committee and set out its primary duties.

- A decision to create a committee "to study the advisability of forming a union school district" (a "§ 706b study committee") can be made either when:
 - The school boards of two or more districts decide to do so
 - or
 - 5% of the eligible voters petition their respective school boards to do so
- After deciding (or being petitioned) to create a § 706b study committee, the participating school boards meet with their superintendent(s) to:
 - (1) Establish a budget
 - Each district's proportionate share of the costs must be equal to the proportion of its equalized pupils compared to the total equalized pupils in all districts forming the § 706b study committee
 - If the proposed budget exceeds \$ 25,000.00, then the voters of each district must vote to approve the budget
 - See [§ 706a](#) for more details
 - See also question # 5 below for information regarding State funding for legal and other necessary costs

- (2) Determine the number of persons from each district who will serve on the study committee
 - The school board of each district must appoint at least one of its own members to serve on the § 706b study committee
 - A school board may also appoint other persons from the community who are not members of the school board
- The appointed members of the § 706b study committee elect a chair, who notifies the Secretary of Education of the election
- A § 706b study committee is a public body pursuant to 1 V.S.A. § 310(3) (*i.e.*, study committee meetings are public; the committee can go into executive session in certain instances by 2/3 vote pursuant to § 313; etc.)
- After discussion, community engagement, and analysis, the § 706b study committee decides either:
 - That it is not advisable to form a union school district
 - or
 - That it is advisable to do so and prepares a report with its analysis that includes proposed Articles of Agreement that, if approved by the State Board of Education and each district identified as “necessary” (see question # 7), will govern the actions of the new union school district

3. Can my school district simultaneously participate in more than one informal exploratory conversation with different districts or groups of districts before it decides whether it wants to commit to being a member of any § 706b study committee?

Yes. Your district can informally discuss alternative potential scenarios with more than one other district or group of districts.

4. Can my district simultaneously be a member of more than one § 706b study committee?

No. When a district becomes a member of a § 706b study committee, it has committed to a path and the exploratory phase is over. A district may not simultaneously be a member of more than one § 706b study committee.

5. Is State funding available to reimburse the legal and other costs that arise in informal exploratory conversations? In § 706b study committees?

Yes. State funds are available to reimburse legal and other costs in both situations.

Information regarding reimbursement grants (including grant applications and the scope of work eligible for reimbursement) can be found under the FAQs and Other Documents heading on the [Act 46 Webpage](#), under the Grants subheading.

In addition, more information is available on the Act 46 webpage regarding a district's ability to [receive multiple grants or participate in more than one study committee](#).

6. After it has formed and includes certain districts as members, can a § 706b study committee invite a district that is not as member to participate in its discussion, with the possibility of being included in the study committee's proposal?

A study committee may contact one or more additional districts if the study committee believes that it "may be advisable to include [the additional district or districts] within the new union school district." 16 V.S.A. § 706b(b).

The statutes do not give independent authority to an individual district that is a member of a § 706b study committee or to an individual member of the study committee to decide whether to contact an additional district and invite it to participate.

7. What is meant by a "necessary" district and an "advisable" district?

Each district included in a § 706b Study Committee's merger proposal must be identified as either "necessary" to the proposal or "advisable" to it.

Necessary District:

- A district that is necessary to the formation of the new union school district
 - The new union school district would not be viable unless the "necessary" district is included in the merger
- Only a district that is a formal member of the § 706b study committee can be identified as a "necessary" district
- The merger proceeds only if the voters in each district identified as "necessary" vote in favor of the proposal
 - the votes of each district are not commingled when deciding this issue

Advisable District:

- A district that would be a positive addition to the new union school district but that is not necessary to its formation
 - the new union school district would still be viable even if the "advisable" district is not included in the merger

- An “advisable” district can be either:
 - A district that is a formal member of the § 706b study committee or
 - A district that was not a formal member, but that the study committee contacted pursuant to 16 V.S.A. § 706b(b) (see also question # 6)
- Whether the voters of an “advisable” district votes in favor of a proposal has no bearing on whether the merger itself proceeds
 - If the voters of each “necessary” district vote in favor of the proposal, then the new union school district is created either:
 - Including the “advisable” district (if its voters voted in favor of the proposal) or
 - Not including the “advisable” district (if its voters did not vote in favor of the proposal)
- If a proposal identifies a district as “advisable,” then the school board of that district decides whether to present the proposal to the electorate for a vote
 - Provided, however, it is required to warn and hold the vote upon receiving a petition to do so signed by ten percent of the district’s voters

8. There are five districts participating as members of our § 706b study committee. Must the voters of all five districts approve the proposal? Or, if the voters in one district do not approve it, does that end the proposal?

See also the answer to question # 7.

A proposed union school district is created only if the voters of each district identified as “necessary” approve of it. If the voters of any district identified as “necessary” vote against the proposal, then the proposal fails. (Note, however, that a district may vote to reconsider a vote of the electorate, so an initial negative vote could become a vote of approval.)

If a district is identified as “advisable” to the merger proposal, then it does not matter whether the voters of that district approve the proposal as long as the voters of each “necessary” district approve it. In fact, the school board of an “advisable” district is not even required to present the issue to the electorate for a vote (unless petitioned to do so by ten percent of the advisable district’s voters).

As a result, if each of the districts in your question are identified as “necessary” to the proposal, then the voters of each district must approve it (either originally or after a petition for reconsideration). If any of the districts is identified as “advisable,” however, and if its voters fail to approve the proposal, then the

proposal goes forward as long as it is approved by the voters in the “necessary” districts.

9. Who decides whether a district that is a member of a § 706b study committee is identified as “necessary” or “advisable”?

16 V.S.A. § 706b grants sole authority to the study committee to create the report and the incorporated proposed articles of agreement. This includes the authority to determine whether a district is identified as “necessary” or “advisable.” 16 V.S.A. §§ 706b and 706c(a).

10. Who decides whether a district that is not a member of a § 706b study committee is identified as “advisable” or is not included in the proposal?

16 V.S.A. § 706b grants sole authority to the study committee to contact additional potential districts and to create the report and the incorporated proposed articles of agreement. This includes the authority to determine whether an additional district is identified as “advisable” to the proposed merger or is not included in the proposal.

11. Can a district that is not a member of a § 706b study committee be included as a potentially merging district in the study committee’s proposal?

Yes. See the answers to questions 6, 7, and 10 above.

12. Do the representatives from an “advisable” district sit at the table and vote on decisions about what to include in the Report, including in the draft Articles of Agreement?

As explained above, an “advisable” district can be a formal member of a study committee or it can be an additional district contacted by the study committee.

If an “advisable” district is a member of the formal § 706b study committee, then its representatives “sit at the table and vote.”

If a potentially “advisable” district is not a member of the formal § 706b study committee (an “additional district”) but was invited by the study committee to have conversations with it (see question # 6), then the study committee is not statutorily required to allow the additional district to “sit at the table.” That being said, the study committee would have a difficult time determining if the additional district would be a good partner if it did not allow the district to participate in the discussions. Although the additional district has no authority to vote on study

committee decisions, the study committee could permit the additional district to cast a nonbinding vote that was advisory in nature.

13. Can my district be named as “advisable” in more than one proposal?

There does not appear to be any law that prohibits a district from being identified as “advisable” in several merger proposals, even if one of those proposals is presented by a study committee of which the district is a member. The district’s school board would determine which proposal, if any, to submit to the voters per 16 V.S.A. § 706d.

While a district may be identified as “advisable” in more than one study committee, consider the issue in pragmatic terms. The best strategy is to engage in informal conversations to explore options before entering into a formal § 706b study committee. The most productive study committees are those in which the participants have already explored their options and are committed to working toward a common goal. Although it is possible for a district to be named as an “advisable” district in more than one proposal, there is little incentive for the members of a study committee to make concessions to a non-member district - especially if the non-member district is either a member of different study committee or is identified as “advisable” in another study committee’s proposal.

14. The voters in my district did not approve a merger proposal. (Alternatively: The voters in my district approved a merger proposal.) Is it possible to have a re-vote on the issue?

The same process governing reconsideration or rescission of a budget vote (or any municipal vote) applies to merger votes as well (17 V.S.A. § 2661). District voters may submit a petition for reconsideration or rescission within 30 days of the merger vote. The petition must be signed by at least 5 % of the registered voters in the district. The revote is then scheduled to occur within 60 after the petition is submitted. (The same process is followed if voters would like to re-vote a vote approving of merger.)

For more information, see the Agency’s guidance document regarding [reconsideration \(re-vote\) of a merger vote](#)

15. Is a § 706b study committee required to obtain the favorable vote of each participating school board before presenting its proposed Report / Articles of Agreement to the Secretary, State Board of Education, and the local voters? If no, then is there any authority to require a study committee to do so?

Nothing in current State law requires a vote of the participating school boards or authorizes the imposition of such a requirement.

Voluntary mergers under Acts 46 (2015), 153 (2010), and 156 (2012) are governed by 16 V.S.A. chapter 11, which is the process enacted in 1968 for the creation of union school districts. A study committee must include at least one board member from each participating school district. 16 V.S.A. § 706a(b).

Before completing its final report, a study committee is required to transmit the report to “the school boards of each school district that participated in the study committee and any other school districts that the report identifies as necessary or advisable ... for the review and comment of each school board.” 16 V.S.A. § 706c(a) (emphasis added).

A school board might choose to vote on a proposed report and notify the study committee of the result. Such a vote, however, would only be advisory in nature and would not have a binding effect. Under state law, a study committee has sole authority to create the proposed report. 16 V.S.A. §§ 706b and 706c(a). Ultimately the final content of a study committee report is a decision for the study committee.

Contact the School Governance Team at aoe.act46@vermont.gov or (802) 479-1744 for additional information.

This document is provided for guidance only and does not have the force of law. See the cited statutes for more detail.